FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR.

First Appeal No.725 of 2007
(State of Mah. & anr. Vs. Narayan Motiram Pathare)

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's Orders

Mrs. T.D. Khade, A.G.P. for the appellants.

CORAM : Smt. Vasanti A. Naik, J.
DATE : 27th September, 2007

Heard Mrs. Khade for the appellants.

By this first appeal, the appellants challenge the judgment passed by the Civil Judge, Senior Division, Amravati, on 7/11/2003, partly allowing the reference filed by the respondent, and granting it @ Rs. 40,000/- per hectare.

The facts giving rise to this first appeal are stated thus:

The land belonging to the respondent was acquired by the State of Maharashtra for the construction of submergence of Jalka Shahapur Project. The Section 4 notification was published on 8/10/1992 and the Section 6 notification was published on 15/4/1993. The Special Land Acquisition Officer passed the Award and granted the compensation to the claimant @ Rs. 22,000/- per hectare. According to the claimant, the market value of the land at the relevant time was at least Rs. 1 lac

per hectare and, therefore, he filed a reference application before the Collector, Amravati, who in turn referred the same to the Civil Court. The matter was registered as Land Acquisition Case No. 65/1994. The reference Court partly allowed the claim of the respondent and granted the compensation @ Rs. 40,000/- per hectare.

The only point that arises for consideration in this first appeal is, “Whether the compensation awarded by the reference Court was just and proper and based on evidence tendered by the respondent before the reference Court?”

It is not in dispute that the land under acquisition was adjoining the national highway. There was an industrial area in the vicinity of the land in question. Village Jalka was connected by State Transport and the field of the respondent had irrigation facility. The claimant had tendered evidence to show that there was a Gram Panchayat, a Post Office and the people of Jalka Shahapur carried the milk business by progressive methods and modern techniques. The respondent had examined himself and also examined three other witnesses. The respondent tendered evidence to show that there was a well constructed in the suit land in the year 1973 and there was an electric motor pump on the well for supply of water to the field. The respondent took the crops of cotton, onion,

chili, brinjal, and there were nearly 500 orange trees standing on the acquired land. It was further deposed by the claimant that the claimant secured a profit of Rs. 50,000/- to Rs. 60,000/- per year, by selling the vegetables and other produce.

Apart from the oral evidence, the claimant produced the documentary evidence in the form of certified copies of two sale deeds which were executed in the years 1982 and 1985. By the sale deed of the year 1982, 2 acres of land was sold @ Rs. 20,000/- per acre. The claimant has tendered evidence to show that the land sold by the sale deed of the year 1982, was just adjoining the acquired land. The other sale instance of the year 1985 further showed that the land was sold @ Rs. 60,000/- per acre. Though the sale instances were of the years 1982 and 1985 i.e. much prior to the issuance of Section 4 notification in this case, the reference Court wrongly recorded that the sale instances had been effected after the issuance of section 4 notification. The reference Court, however, after appreciating the evidence tendered by the claimant on record, along with two other aforesaid sale instances, came to a conclusion that the market value of the land in question was RS. 40,000/- per hectare. On the face of the evidence tendered by the claimant, the reference Court could not have granted compensation at the rate which was less than Rs.

40,000/- per hectare. On the basis of the evidence tendered by the claimant on record, it cannot be said that the grant of compensation @ Rs. 40,000/- per hectare was on the higher side and the reference Court was not justified in enhancing the compensation from Rs. 22,000/- per hectare to Rs. 40,000/- per hectare. In fact, the two sale instances of the year 1982 and 1985 clearly showed that the market value of the land could be more than Rs. 40,000/- per hectare on the date of issuance of Section 4 notification in the year 1992. The compensation granted to the respondent is just and reasonable and grant of compensation @ Rs. 40,000/- is supported by the evidence tendered by the respondent-claimant.

For the reasons aforesaid, the first appeal is dismissed with no order as to costs.

JUDGE

RMP